

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**BOARD OF MISSISSIPPI LEVEE
COMMISSIONERS**

PLAINTIFF

VS.

CASE NO. 4:09-CV-81-SA-DAS

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY; LISA P. JACKSON,
in her official capacity as Administrator; and
PETER S. SILVA, in his official capacity as Assistant
Administrator for Water,**

DEFENDANTS

ORDER

BEFORE THE COURT is the unopposed Motion to Intervene (#20) on behalf of The Sierra Club, Gulf Restoration Network, and American Rivers (collectively, “Sierra Club intervenors”). The Sierra Club intervenors request to intervene as of right under Federal Rule of Civil Procedure 24(a), or in the alternative, be allowed to participate via permissive intervention under Rule 24(b).

Federal Rule of Civil Procedure 24(a) provides that, “upon timely application,” a court shall permit intervention as of right where:

the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.

Fed. R. Civ. P. 24(a)(2). The Fifth Circuit Court of Appeals has ruled that intervention as of right must be granted where: (1) the application to intervene is timely; (2) the applicant has an

interest in the subject matter of the action; (3) disposition of the action may, as a practical matter impair or impede the applicant's ability to protect that interest; and (4) the applicant's interest may not be adequately represented by the existing parties. See, e.g., *Sierra Club v. Glickman*, 82 F.3d 106, 108 (5th Cir. 1996).

The Court finds the Sierra Club intervenors have satisfied each element enumerated by the Fifth Circuit. Specifically, the court notes that the Sierra Club intervenors clearly evidenced their interests are at risk. Moreover, the existing defendants do not have identical concerns, making it necessary that Sierra Club intervenors be permitted to intervene as of right.

Accordingly, the Motion to Intervene (# 20) is hereby GRANTED. The court hereby orders that The Sierra Club, Gulf Restoration Network, and American Rivers be allowed to intervene as Defendants in the present action.

SO ORDERED, this the 12th day of December 2010.

/s/David A. Sanders
UNITED STATES MAGISTRATE JUDGE